

21 C.J.S. Courts § 5

Corpus Juris Secundum | May 2023 Update

Courts

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I. In General

A. General Nature, Power, and Administration of Courts

§ 5. Inherent and implied powers exercised by court

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#) 1

Courts possess certain inherent powers whose exercise is essential to the function of the judicial department, to the maintenance of its authority, or to its capacity to decide cases.

Courts' authority to act not only derives from the constitutional or statutory source of the courts' jurisdiction¹ but also from the courts' inherent authority and power,² by virtue of their existence as courts,³ as necessary to exercise jurisdiction, administer justice,⁴ preserve independence and integrity,⁵ and govern that which is essential to the existence, dignity, and function of courts as courts.⁶

A court's inherent powers are not derived from a legislative grant or a specific constitutional provision but from the very fact that the court has been created and charged with certain duties and responsibilities.⁷ The courts' existence as direct creatures of the constitution is the source of broad inherent authority.⁸

The inherent power of a court derives from the separation of governmental power between the three branches of state government.⁹ The test of a court's inherent authority is applied with due consideration for the other branches of government and does not rely on inherent authority to serve the relative needs or wants of the judicial branch.¹⁰

The courts' inherent powers as courts are not absolute.¹¹ For example, a court's inherent authority does not allow it to act where it would otherwise lack jurisdiction.¹² However, among the courts' inherent powers is the power to determine if it has jurisdiction before proceeding.¹³

CUMULATIVE SUPPLEMENT

Cases:

Trial courts have inherent authority to carry out their duties, including as reasonably required to allow them to efficiently perform their judicial functions; to protect their dignity, independence, and integrity; and to effectuate their lawful actions. [People v. Justice, 2023 CO 9, 524 P.3d 1178 \(Colo. 2023\)](#).

Courts have inherent equity, supervisory, and administrative powers as well as inherent power to control litigation process before them, but these inherent powers to administer and manage the litigation process are not the source of courts sentencing authority. [Haw. Rev. Stat. § 706-600 et seq. State v. Agdinaoay, 150 Haw. 223, 500 P.3d 408 \(2021\)](#).

[END OF SUPPLEMENT]

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Footnotes

- 1 § 15.
- 2 U.S.—[National Organization of Veterans Advocates, Inc. v. Secretary of Veterans Affairs, 710 F.3d 1328 \(Fed. Cir. 2013\)](#), subsequent determination, [517 Fed. Appx. 940 \(Fed. Cir. 2013\)](#).
Cal.—[People v. Olsen, 229 Cal. App. 4th 981, 177 Cal. Rptr. 3d 791 \(6th Dist. 2014\)](#).
Colo.—[Antero Resources Corporation v. Strudley, 2015 CO 26, 347 P.3d 149 \(Colo. 2015\)](#).
Mass.—[Bower v. Bourne-Bower, 469 Mass. 690, 15 N.E.3d 745 \(2014\)](#).
W. Va.—[State ex rel. J.C. v. Mazzzone, 233 W. Va. 457, 759 S.E.2d 200 \(2014\)](#).
- 3 U.S.—[National Organization of Veterans Advocates, Inc. v. Secretary of Veterans Affairs, 710 F.3d 1328 \(Fed. Cir. 2013\)](#), subsequent determination, [517 Fed. Appx. 940 \(Fed. Cir. 2013\)](#).
Minn.—[State v. M.D.T., 831 N.W.2d 276 \(Minn. 2013\)](#).
Nev.—[City of Sparks v. Sparks Mun. Court, 302 P.3d 1118, 129 Nev. Adv. Op. No. 38 \(Nev. 2013\)](#).
Tex.—[McDonald v. State, 401 S.W.3d 360 \(Tex. App. Amarillo 2013\)](#), petition for discretionary review refused, (Aug. 21, 2013).
Wis.—[State v. Melton, 2013 WI 65, 349 Wis. 2d 48, 834 N.W.2d 345 \(2013\)](#).
- 4 Implicit in judicial system
Oklahoma.—[Bowles v. Goss, 2013 OK CIV APP 76, 309 P.3d 150 \(Div. 2 2013\)](#).
Fla.—[Weissman v. Braman, 132 So. 3d 327 \(Fla. 4th DCA 2014\)](#).
Mass.—[Campatelli v. Chief Justice of Trial Court, 468 Mass. 455, 11 N.E.3d 115 \(2014\)](#).
Md.—[Dykes v. State, 444 Md. 642, 121 A.3d 113 \(2015\)](#).

N.C.—[In re Officials of Kill Devil Hills Police Dept.](#), 223 N.C. App. 113, 733 S.E.2d 582 (2012).

W. Va.—[State ex rel. J.C. v. Mazzone](#), 233 W. Va. 457, 759 S.E.2d 200 (2014).

5 Md.—[Dykes v. State](#), 444 Md. 642, 121 A.3d 113 (2015).

Tex.—[Porras v. Jefferson](#), 409 S.W.3d 804 (Tex. App. Houston 14th Dist. 2013).

6 Colo.—[People In Interest of K.J.B.](#), 2014 COA 168, 342 P.3d 597 (Colo. App. 2014).

Minn.—[In re Cascarano](#), 871 N.W.2d 34 (Minn. Ct. App. 2015).

Wis.—[State v. Melton](#), 2013 WI 65, 349 Wis. 2d 48, 834 N.W.2d 345 (2013).

7 Md.—[Dykes v. State](#), 444 Md. 642, 121 A.3d 113 (2015).

Tex.—[Porras v. Jefferson](#), 409 S.W.3d 804 (Tex. App. Houston 14th Dist. 2013).

8 Tenn.—[In re Bell](#), 344 S.W.3d 304 (Tenn. 2011).

9 Ky.—[Bell v. Com., Cabinet for Health and Family Services, Dept. for Community Based Services](#), 423 S.W.3d 742 (Ky. 2014).

Mass.—[Campatelli v. Chief Justice of Trial Court](#), 468 Mass. 455, 11 N.E.3d 115 (2014).

Nev.—[City of Sparks v. Sparks Mun. Court](#), 302 P.3d 1118, 129 Nev. Adv. Op. No. 38 (Nev. 2013).

Tex.—[Henry v. Cox](#), 483 S.W.3d 119 (Tex. App. Houston 1st Dist. 2015), petition for review filed, (Feb. 5, 2016).

10 Minn.—[State v. M.D.T.](#), 831 N.W.2d 276 (Minn. 2013).

11 Minn.—[In re Cascarano](#), 871 N.W.2d 34 (Minn. Ct. App. 2015).

12 § 15.

13 Minn.—[City of Duluth v. Fond du Lac Band of Lake Superior Chippewa](#), 843 N.W.2d 577 (Minn. 2014).

As to the jurisdiction and power of courts to determine their own jurisdiction, generally, see § 102.